

**RULES
OF
GEORGIA TECHNOLOGY AUTHORITY
GENERAL APPLICABILITY**

**CHAPTER 665-1-1
GENERAL**

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665-1-1-.01 General Definitions. The following definitions shall apply generally to all rules and regulations of the Georgia Technology Authority:

(a) "Georgia Technology Authority," "Authority," or "GTA" means the Georgia Technology Authority as established in Code Section 50-25-1 et seq. Unless specifically stated otherwise, the obligations, duties, and responsibilities of the Georgia Technology Authority contained within these rules may be executed by the CIO and Executive Director of the Georgia Technology Authority or his/her designee.

(b) "Board" means the board of directors for the Georgia Technology Authority.

(c) "Chief information officer" or "CIO" means the chief information officer of the State of Georgia provided for by Code Section 50-25-5.1.

(d) "Private sector" means any non-government, privately or publicly owned entity.

(e) "Technology" or "technology resources" means hardware, software, and communications equipment, including, but not limited to, personal computers, mainframes, wide and local area networks, servers, mobile or portable computers, peripheral equipment, telephones, wireless communications, public safety radio services, facsimile machines, technology facilities including but not limited to, data centers, dedicated training facilities, and switching facilities, and other relevant hardware and software items as well as personnel tasked with the planning, implementation, and support of technology. Related consulting services shall also be included within this definition.
Authority O.C.G.A. § 50-25-1.

665-1-1-.02 Forms. All forms referred to in these Rules are hereby incorporated and made a part of these Rules. Said forms may be obtained from

the Georgia Technology Authority, 100 Peachtree Street, Suite 2300, Atlanta,
Georgia 30303-3404.
Authority O.C.G.A. § 50-25-7.3(e).

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665-1-2-.01 Promulgation, Amendment, or Repeal of Rules. Promulgation, amendment, or repeal of all Rules in these chapters may be proposed, published and adopted by approval of a majority vote of the members present. All such actions under this section shall be in conformity with the purposes and provisions set forth under O.C.G.A. § 50-25-1 et seq.
Authority O.C.G.A. §§ 50-25-1 et seq. 50-25-7.3(e).

665-1-2-.02 Mandatory Compliance Required. Mandatory compliance with these rules and regulations promulgated by the Authority is required. However, in GTA's sole discretion, no proceeding under this Chapter will be voided because of a minor technical failure of compliance that GTA determines does not harm the substantive rights of the Authority or any other party or otherwise adversely affect the integrity of the GTA's procurement processes.
Authority O.C.G.A. § 50-25-7.3(e). **History.** Original Rule entitled "Substantial Compliance Only Required" was filed April 16, 2001 and effective on May 6, 2001 as 665-1-2-.02. **Amended:** Rule repealed and a new Rule entitled "Mandatory Compliance Required" adopted. Filed August 10, 2001; effective August 30, 2001.

665-1-2-.03 Severability. In the event that any Rule, sentence, clause or phrase of any of these Rules may be construed by any court of competent jurisdiction to be invalid, illegal, unconstitutional, or otherwise unenforceable, such determination or adjudication shall in no manner affect the remaining Rules or portions thereof. The remaining Rules or portions thereof shall remain in full force and effect, as if such Rule or portions thereof so determined, declared or adjudged invalid or unconstitutional were not originally a part of these Rules.
Authority O.C.G.A. § 50-25-7.3(e).

665-1-2-.04 Waiver or Suspension of Rules. The Georgia Technology Authority recognizes the need to exercise reasonable judgment in the administration of the rules of the Authority. A rule or requirement may be waived or suspended upon finding that circumstances warrant such action. Any such suspension or waiver may be done on a case-by-case or solicitation-by-solicitation basis.

(a) Any entity seeking relief from an Authority rule or requirement shall file a request in writing with the executive director of the Authority. At a minimum, the request shall specify the rule or requirement in question and the rationale for the request.

(b) The Executive Director shall be authorized to act on behalf of the Board in the consideration and appropriate dispensation of such requests. The Executive Director shall make a timely report to the Board concerning action taken to suspend an Authority rule or requirement.

1. If an entity's request has an impact upon a state Agency, the entity shall send a copy of the request to the executive officer of the state Agency. The state Agency shall be allowed the opportunity to send a statement to the Authority setting forth its position with respect to the request.

2. The Executive Director may request additional written documentation from the entity and/or the state Agency requesting the waiver.

(c) The Executive Director may defer action on a waiver request until such time as the Board has had a reasonable opportunity to consider the request. Authority O.C.G.A. § 50-25-7.3(e).

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665-2-1-.01 Forms, Terms and Conditions. The Georgia Technology Authority (GTA) shall prescribe forms, terms and conditions and advertisement requirements for acquiring goods and services related to information technology for agencies. The forms, terms and conditions, and advertisement requirements shall be established taking into consideration market volatility, trends and conditions, legal requirements, and any other factors determined to be in the state's best interest. These shall be made available to all agencies via the GTA IT procurement website.

Authority O.C.G.A. Sec. 50-25-7.3(e).

665-2-1-.02 Definitions. The following definitions shall apply generally to all procurement rules and regulations of the Georgia Technology Authority:

(a) "Agency," "User Agency," or "Using Agency" is defined as every state department, agency, board, bureau, commission, and authority but shall not include any agency within the judicial branch of state government or the University System of Georgia and shall also not include any authority statutorily required to effectuate the provisions of Part 4 of Article 9 of Title 11, unless they voluntarily agree to be bound by these rules for the limited purpose of the Georgia Technology Authority conducting or coordinating a technology resource purchase or solicitation on their behalf.

(b) "Agency Decisionmaker" is defined for purposes of Rule 665-2-11.07 as either

1. The Procurement Director, or

2. Any other GTA official (other than the Executive Director, or the Protest Coordinator or Contracting Officer for the particular procurement that is the subject of the Protest, or any member of the Protest Panel hearing the Protest) selected and appointed in the sole discretion of the Procurement Director either

as a permanent GTA position or on a case by case basis at any time after receipt of a Protest and prior to the appointment of a Protest Panel or a Third Party Hearing Officer with respect to a Protest.

(c) “Best value procurement” is defined as a procurement process that has as a fundamental objective the reduction of total cost of ownership as defined in these rules or generally the best value procurement methods set forth in Section 665-2-4-.02.

(d) “Business Day” is defined as any day other than Saturday, Sunday or a day that is a public and legal holiday in the State of Georgia under O.C.G.A. Section 1-4-1.

(e) “Clarification” is defined as limited exchanges between the state and offerors that may occur after receipt of offer. Offerors may be given the opportunity to resolve clerical errors.

(f) “Communications” are defined as exchanges between the state and offerors after receipt of offers to address issues of past performance, to enhance the state's understanding of offers, to allow reasonable interpretation of the offer, or to facilitate the state's evaluation process. Communications shall not be used to cure material omissions in the offer.

(g) Competition in purchasing exists when the available market for the goods or services to be acquired consists of more than one supplier that is technically qualified and willing to submit an offer. The public competitive process is the process followed by a public agency to solicit offers from multiple suppliers to provide the specified goods or services. The process must be conducted in a manner that attempts to ensure that all qualified suppliers who are willing to submit offers are treated equitably and are not placed at a disadvantage with respect to the process outcome.

(h) “Competitive Range” is defined as the range of all of the most highly rated offers, as determined by the evaluation committee. The range shall be used to determine the optimal best value solutions to address requirements of the solicitation document.

(i) “Contract Award” is defined as the GTA’s written notice of award of a contract to the successful Respondent in a particular GTA procurement.

(j) “Contracting Officer” is defined as the GTA official authorized to manage a particular GTA procurement and to issue a Contract Award with respect

thereto, as set forth in the applicable Solicitation Documents for such procurement.

(k) "Contract Value" is defined for the purposes of Rule 665-2-11.07 as the actual Contract Award amount.

(l) "Deficiency" is defined as a failure to meet a stated requirement or a combination of weaknesses in an offer that increases the risk of unsuccessful contract performance.

(m) "Estimated Contract Value" is defined for the purposes of Rule 665-2-11.07 as GTA's pre-award estimate of the amount that will be spent by the GTA or the applicable Agency or Agencies under any contract issued in connection with a particular procurement.

(n) "Executive Director" is defined as chief information officer of the State of Georgia and the Executive Director of the Authority provided for by Code Section 50-25-5.1.

(o) "Frivolous Protest" is defined as a Protest that, based on the Protest pleading as filed, and taking all allegations of the Protest as true, is without merit, is insufficient or raises no substantial factual or legal basis on which a Protest could be sustained; provided, however, that if any court of competent jurisdiction, in a final non-appealable order, overturns the Protest Decisionmaker's final determination that a Protest was a Frivolous Protest, such Protest shall not be considered a Frivolous Protest for purposes of Rule 665-2-11-.07(f) 4.

(p) "Goods" are defined as any information technology commodities including equipment, materials, or supplies.

(q) "Interested Party" is defined for the purposes of Rule 665-2-11-.07 as

1. With respect to any Protest filed on or before the Solicitation Response Date, any party with a direct economic interest in providing the goods or services sought in the procurement that is the subject of Solicitation Document in question, and

2. With respect to any Protest filed after the Solicitation Response Date, only those Respondents who actually filed a timely and responsive Solicitation Response that complies with the Solicitation Document in question.

(r) “Negotiation” is defined as exchanges in either a competitive or sole source environment between the state and offerors that are undertaken with the intent of allowing offerors to revise their offers. Revisions may apply to price, schedule, technical requirements, or other terms of the proposed contract. Negotiations are specific to each offer and shall be conducted to maximize the state's ability to obtain best value based on the evaluation factors set forth in the solicitation. The state may also give evaluation credit for technical solutions exceeding mandatory minimums or negotiate with offerors for increased performance beyond mandatory minimums.

(s) “Offer” is defined as a bid or proposal submitted in response to any solicitation document utilizing "Best Value" procurement methodology including Invitation for Bids (IFB), Request for Proposals (RFP), Request for Quotations (RFQ), negotiation, or other acquisition processes, as well as responses to Solution-Based Solicitations and Government-Vendor Partnerships.

(t) “Price” is defined as the amount paid by the state to a vendor for a good or service.

(u) “Procurement” is defined as acquisition of goods and services.

(v) “Procurement Director” is defined as the GTA official who supervises the procurement section of the GTA and to whom the Contracting Officer reports.

(w) “Protest” is defined as any protest, challenge or other claim, howsoever designated, to any aspect of a GTA procurement. Neither the Procurement Director's appointment of another GTA official as Agency Decisionmaker, nor the Executive Director's appointment of the Protest Panel or a Third Party Hearing Officer, shall be a basis for a Protest.

(x) “Protest Coordinator” is defined as the GTA Contracting Officer for the particular procurement that is the subject of the Protest. However, the Executive Director may request that another GTA employee (other than the Agency Decisionmaker or any member of the Protest Panel hearing the Protest) serve as the Protest Coordinator where, in the Executive Director's sole discretion, he determines that circumstances warrant such an action. The Protest Coordinator will be authorized to carry out the following duties with respect to a Protest:

1. Manage the submission of the Protest to the Protest Decisionmaker;
2. Evaluate compliance with this Procedure;
3. Issue summary dismissals in accordance with Rule 665-2-11-.07(e);

4. When necessary, request that the Executive Director appoint additional staff to assist the Protest Coordinator in performing the duties set forth herein, and

5. Any other authority delegated from time to time by the Executive Director.

(y) “Protest Decisionmaker” is defined as, with respect to each Protest, the person or panel authorized to hear, resolve or rule on that Protest, which may be the Agency Decisionmaker acting singly, the Protest Panel or the Third Party Hearing Officer as the case may be.

(z) “Protestor” is defined as an Interested Party who files a timely Protest in accordance with this Procedure.

(aa) “Protest Panel” is defined as a panel consisting of the Agency Decisionmaker and two (2) other individuals, which, when appointed in accordance with Rule 665-2-11-.07(d)2, will be authorized by the Executive Director to recommend a resolution or ruling on a Protest in lieu of the Agency Decisionmaker acting singly or a separate Third Party Hearing Officer.

(bb) “Respondent” is defined as an Interested Party that properly returns a Solicitation Response to a Solicitation Document, in accordance with the criteria set forth in such Solicitation Document.

(cc) “Rules of the GTA” is defined as the rules and regulations of the GTA at Chapter 665-1 *et seq.*, as in effect from time to time. For purposes of this Procedure, the Rules of the GTA that are applicable to a Protest shall be the Rules of the GTA in effect at the time such Protest is filed.

(dd) “Services” are defined as any process of providing services requiring specialized knowledge, experience, expertise, professional qualifications, or similar capabilities for any aspect of information technology including, but not limited to, work or task performance, review, analysis, and advice in formulating or implementing improvements in programs or services.

(ee) “Solicitation Document” is defined as a written or electronic IFB, RFQ, RFP, Solution-Based Solicitation, Government-Vendor Partnership, Request for Information (RFI) document or other acquisition documents expressly used to invite offers or request information regarding the acquisition of goods and services.

(ff) “Solicitation Decision” is defined as, with respect to each Solicitation Document issued in connection with a particular GTA procurement, the GTA decision or award with respect to such GTA Solicitation Document.

(gg) “Solicitation Decision Date” is defined as, with respect to each Solicitation Document issued in connection with a particular GTA procurement, the date the GTA issues its Solicitation Decision with respect to such GTA Solicitation Document.

(hh) “Solicitation Response” is defined as the document submitted by a Respondent as a bid, response, offer or proposal in response to a Solicitation Document.

(ii) “Solicitation Response Date” is defined as, with respect to each Solicitation Document issued in connection with a particular GTA procurement, the date designated by the GTA for filing the Solicitation Response with the Contracting Officer, as set forth in the applicable Solicitation Document for such procurement.

(jj) “Third Party Hearing Officer” is defined for the purposes of Rule 665-2-11.07 as an individual who is neither employed by nor affiliated with the GTA, an Interested Party or any Agency involved in the particular GTA procurement that is the subject of the Protest and who, if appointed in accordance with Rule 665-2-11-.07(d)3, will be authorized by the Executive Director to recommend a resolution or ruling on a Protest in lieu of the Agency Decisionmaker acting singly or a separate Protest Panel.

(kk) “Total Cost of Ownership” is defined as a summation of all purchase, operating, and related costs for a product or service. It includes but is not limited to purchase price, transportation, receiving and inspection, maintenance, operating costs, downtime, energy costs, and disposal costs.

(ll) “Weakness” is defined as a flaw in the offer that increases the risk of unsuccessful contract performance.

(mm) “Reverse Auction” is defined as a competitive process where the lowest offered price is disclosed to the bidders and the bidders are given an opportunity to offer a lower price until the auction is closed.

(nn) “Purchaser” is defined as the agency or using agency soliciting offers to acquire goods or services.

Authority O.C.G.A. §§ 50-25-7.3(e), 50-25-1. **History.** Original Rule entitled “Definitions” was filed April 16, 2001 and effective on May 6, 2001 as 665-2-1-

.02. **Amended:** Rule repealed and a new Rule of the same title adopted. Filed August 10, 2001; effective August 30, 2001.

665-2-1-.03 General Delegation. All agencies shall contract through GTA for any technology resource purchase of such agency exceeding \$100,000, subject to the provisions of O.C.G.A. 50-25-7.2. Therefore, the State Chief Information Officer (CIO) establishes a general delegation of one hundred thousand dollars \$100,000 for each agency's technology purchases. The CIO or his designee may elect to increase or decrease this general delegation on an agency-by-agency basis or a case-by-case basis without modification of these rules. Regardless of this general delegation, agency technology procurements must adhere to all statewide technology policy standards set forth by GTA, unless expressly waived.

Authority O.C.G.A. §§ 50-25-7.3(e), 50-25-7.2, 50-25-4(a)(28).

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Authority O.C.G.A. §§ 50-25-7.3(e), 50-25-4(a)(30).

665-2-2-.02 Verbal Requests. Verbal requests for procurement activities are not satisfactory substitutes for electronic or written requests except in emergencies. Electronic or written confirmation must follow any such request made in an emergency situation.
Authority O.C.G.A. §§ 50-25-7.3(e), 50-25-4(a)(30).

665-2-2-.03 Confidentiality. All information and documentation (verbal and written) relative to development of a contractual document for a proposed procurement shall be deemed confidential in nature, except as deemed necessary by the purchaser to develop a complete contractual document. Such material shall remain confidential until successful completion of the procurement process.
Authority O.C.G.A. §§ 50-25-7.3(e), 50-25-4(a)(30).

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665-2-3-.01 Types of Specifications. There shall be two general types of specifications. A standard specification shall be originated and developed by GTA or any other agency or commission, statutorily authorized to develop standards. It shall be comprehensive in nature, intended for repeated use and may be changed, as quickly and as often as is necessary, to address changes in the technology marketplace. An example of this type of specification is one that complies with the required statewide Technical Architecture as developed by the GTA for statewide use. The other general type of specification shall be originated by the user and modified as necessary by GTA to accomplish the overall efforts to manage the area of information technology effectively. This type of specification may include, but is not limited to, "brand name or equal" or "brand specific" technical and functional specifications.

Authority O.C.G.A. §§ 50-25-7.3(e), 50-25-4(a)(29), 50-25-4(a)(30).

665-2-3-.02 Need. GTA may inquire into the need for and level of quality of goods or services requested by an agency. After consultation with the agency, GTA may modify the level of specification requested to enhance overall direction of the state's program in the area of information technology.

Authority O.C.G.A. §§ 50-25-7.3(e), 50-25-4(a)(30).

665-2-3-.03 Development of Specifications.

(1) A standard specification is intended for general use and kept current by GTA. In formulating such a specification, advisory committees made up of personnel from various agencies and the private sector may be employed for advice and assistance at the CIO's discretion. This type of specification may be offered also for the review and comments of manufacturers and suppliers who may participate in the procurement process on the items in question.

(2) Where competition is available and advantageous to the state, every purchaser shall use/write specifications and requirements that are reasonable to satisfy the need, but not unduly restrictive, and that shall encourage competition in the open market and result in the best possible contract for the good or service needed.

Authority O.C.G.A. §§ 50-25-7.3(e), 50-25-4(a)(30).

665-2-3-.04 Articles for Special Purposes. Where articles are to be used for educational or training purposes, by persons with disabilities, for test and evaluation or research purposes, or for any purpose deemed necessary by the CIO or his designee, special or overriding consideration may be given to the factor of suitability in the preparation of specifications, evaluation of offers, for waiver of competition, and the award of contracts. GTA shall consult with the agency prior to modification by GTA of any information or recommendation submitted by the end user.

Authority O.C.G.A. §§ 50-25-7.3(e).

665-2-3-.05 Submission for Adoption. Upon completion of all studies, reviews, and drafts; any proposed standard specifications shall be submitted to the CIO or his designee for consideration. A specification shall be adopted as a standard if advantageous to the state. GTA may modify a standard specification on an interim basis as deemed necessary or advantageous to the state.

Authority O.C.G.A. §§ 50-25-7.3(e), 50-25-4(a)(29), 50-25-4(a)(30).

665-2-3-.06 Copies of Specifications. GTA shall distribute copies of standard specifications to interested parties through electronic media and these shall be available for customer and public inspection at GTA and on the GTA IT procurement website.

Authority O.C.G.A. §§ 50-25-7.3(e), 50-25-4(a)(29), 50-25-4(a)(30).

665-2-3-.07 Confidentiality. All information and documentation relative to the development of a specification/needs document shall be deemed confidential in nature until specification adoption or finalization of the procurement process for a specific contract.

Authority O.C.G.A. §§ 50-25-7.3(e), 50-25-4(a)(29), 50-25-4(a)(30).

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665-2-4-.01 Procurement Procedures. All technology purchases involving the expenditure of public funds by agencies or GTA shall be in conformity with the "Best Value" information technology procurement requirements set forth in these rules. Exemptions may be granted by GTA where a waiver, special delegation, exemption or an emergency or pressing need purchase is permitted by rule. Information technology procurements not covered by statewide firm, convenience or service contracts issued by GTA shall comply with the following delegations and procedures:

(a) Small Purchases: A small purchase is defined as the purchase of goods and services, where the expenditure of public funds is twenty-five hundred dollars (\$2,500) or less. If the needed technology resource can reasonably be expected to be acquired for less than two thousand five hundred dollars (\$2,500) and are not available on state contracts or through statutorily required sources, the purchase may be effectuated without competitive bidding. Nothing in this rule shall apply to, or effect the laws, rules and regulations governing emergency purchases. The using agency or GTA shall award contracts for small purchases.

(b) Purchases Governed by General Delegation:

1. For purchases made by an agency or GTA involving an expenditure of public funds over two thousand five hundred dollars (\$2,500) up to the general delegation limit established by the CIO, the agencies or GTA shall use the following methodologies to encourage competition:

(i) The agency or GTA shall issue solicitation documents requesting or inviting offers;

(ii) The agency or GTA shall include in solicitation documents standard language, including terms and conditions as published by GTA on GTA IT procurement website. If additional terms and conditions are used, they shall not conflict with GTA' standard terms and conditions unless prior written approval is obtained from GTA for unusual requirements; and,

(iii) The agency may request distribution lists, if available from GTA, and use them in addition to distribution lists maintained by the agency for the purpose of soliciting competition.

2. Agencies shall advertise their solicitations through GTA for purchases exceeding ten thousand dollars (\$10,000) up to the general delegation established by the CIO. Agencies must advertise the purchases through the Georgia Procurement Registry.

3. The agencies may award contracts under their general delegation.

(c) Procurement Procedure: Where the total requirements for goods or services involve an expenditure of public funds that exceed the general delegation established by the CIO, offers shall be solicited as follows:

1. Competitive offers for goods and services shall be solicited by GTA via advertisement, unless the advertising requirement is waived by the CIO or his designee subject to the provisions of Rule 665-2-4-.14 of this Section. This shall include offers for statewide term or convenience contracts.

2. Notwithstanding any waiver, general delegation, or exemption rules; all telecommunications goods and services shall be procured by GTA.
Authority O.C.G.A. §§ 50-25-7.3(e), 50-25-4(a)(30), 50-25-7.2, 50-25-7.5.

665-2-4-.02 Methods of Source Selection. Competitive source selection may be conducted in accordance with the following best value methods.

(a) The following steps may be employed in the application of the best value procurement methodology:

1. Appropriate best value bidding method is determined by purchasing authority.

2. Solicitation document is developed and advertised in accordance with other rules of this Chapter.

3. Scheduled conferences or site visits are held in accordance with solicitation requirements.

4. Offers are received and a public bid opening is conducted. For solicitations that allow for negotiation after receipt of offers, only the names of responding bidders are revealed. Price information shall be made public after evaluation and award.

5. An evaluation committee evaluates offers in accordance with the stated evaluation factors. For solicitations that include a best value ranking process, scoring and ranking may be determined by using any consistent rating methodology, including adjectival, numerical, or ordinal rankings. The results of the evaluation committee shall be documented in the contract file. Evaluation factors may include but are not limited to quality factors; delivery and implementation schedule; maximum facilitation of data exchange and systems integration; warranties, guarantees, and return policies; vendor financial stability; consistency of the proposed solution with the state's strategic program direction; effectiveness of business solution and approach; industry and program experience; prior record of vendor performance; vendor expertise with similar projects; proven development methodologies and tools; and innovative use of technologies.

6. Clarifications, communications to establish a competitive range, or negotiations may be conducted with offerors after receipt of offers in accordance with instructions and procedures set forth in the solicitation document and as appropriate to the method of source selection chosen. In those cases where negotiation is permitted by procedures set forth in the solicitation document, offerors may be allowed to submit best and final offers subsequent to negotiated changes in the initial offer or previous offer.

7. The evaluation committee shall determine a final ranking of all offers under consideration using only the criteria set forth in the solicitation document. All offerors shall be ranked from most advantageous to least advantageous to the state.

8. Award must be made to the responsive and responsible offeror whose offer is determined in writing to be the most advantageous to the state, using all evaluation factors set forth in the solicitation. If the lowest price technically acceptable method is used, award must be made to the responding and responsible offeror with the lowest price.

9. The following types of solicitations may be used:

(i) One-step Invitation for Bids (IFB) or Request for Proposals (RFP) Technical and price response is submitted at the same time.

(I) If the lowest priced technically acceptable method of source selection is used, only clarifications are allowed.

(II) If the trade off or ranking method of source selection is used, communications to establish competitive ranges or negotiations may be used. Final price adjustments or best and final offers may be allowed.

(ii) Two step IFB or RFP Technical responses (step one) and price responses (step two) to solicitation are submitted separately.

(I) If the lowest priced technically acceptable method is used, technical responses (step one) are evaluated for acceptability only. Only clarifications with offerors are allowed. Price offers are opened (step two) for only those offerors who submitted technically acceptable responses. Selection is made by low price analysis.

(II) If the trade off or ranking method of source selection is used, technical responses (step one) are submitted, after which clarifications, communications to establish a competitive range, and negotiations with offerors may be allowed as specified in the solicitation document. Price responses (step two) are requested only from offerors placed in the competitive range after the technical evaluation and discussion phase has concluded. Subsequent negotiations may be conducted with offerors after receipt of price responses. Final price adjustments or best and final offers may be allowed.

(b) A trade off method of source selection may be utilized when the best value is expected to result from selection of other than the lowest priced offer or other than the highest technically qualified offer. For a solicitation using a trade off source selection method, the following shall apply:

1. Evaluation factors that will affect the contract award decision and their relative importance shall be generally stated in the solicitation.

2. Price must be considered as an evaluation factor in the selection process. The solicitation shall state the importance or numerical weight of all evaluation factors including price.

3. Offers are ranked using the evaluation factors and their relative importance or weight. The relative overall ranking of any offer may be adjusted up or down when considered with, or traded-off against, other non-price factors. For example, an offer with the lowest price when compared to other offers would normally receive the best ranking in the price evaluation category. However, if other non-price evaluation factors received low rankings, the overall ranking of the offer would be reduced.

4. Clarifications are permitted. If specified in the solicitation, communications and negotiations may be permitted after receipt of offer.

(c). The lowest price technically acceptable source selection method may be used when best value is expected to result from selection of the technically acceptable offer with the lowest evaluated price. When using the lowest price technically acceptable method, the following shall apply:

1. The evaluation factors that establish the requirements of acceptability shall be set forth in the solicitation. Solicitations shall specify that award will be made on the basis of the lowest evaluated price of those proposals that meet or exceed the acceptability requirements for non-price factors.

2. Trade offs between price and non-price factors are not permitted.

3. Proposals are evaluated for acceptability but are not ranked using the non-price factors.

4. Clarifications are permitted. If specified in the solicitation, communications and negotiations may be permitted after receipt of offer.

(d). Any source selection process may incorporate the pre-qualification of contractors (Request for Qualified Contractors or RFQC) prior to the issuance of a RFQ or RFP when deemed advantageous by the CIO. If the source selection process anticipates negotiations then all confidentiality provisions of this Chapter shall be in full force and effect from the issuance of the RFQC to the award of the contract.

(e). GTA may employ the use of on-line reverse auctions to arrive at the lowest price. This solicitation method will satisfy any requirement necessitating a competitive sealed bidding. The names of the bidders may be held in confidence until the award of a contract.

(f). Other competitive best value source selection methodologies may be used if they are determined to be advantageous to the state and are approved for use by the CIO or his designee.

Authority O.C.G.A. §§ 50-25-7.3(e), 50-25-7.4, 50-25-4(a)(30).

665-2-4-.03 Electronic, Facsimile and Telephone Offers. At the discretion of the CIO, GTA and agencies may accept electronic, facsimile, and telephone offers in response to solicitation documents that are required to be sealed, if specified in the solicitation documents or by general rule.

Authority O.C.G.A. §§ 50-25-7.3(e), 50-25-4(a)(30).

665-2-4-.04 Recall of Offers. An authorized agent of a company may recall an offer prior to opening, through a signed request.

Authority O.C.G.A. §§ 50-25-7.3(e), 50-25-4(a)(30).

665-2-4-.05 Public Opening.

(1) GTA and agencies shall publicly open advertised sealed procurements using the lowest price technically acceptable source selection method at the time, date, and place identified in the solicitation document. At the time of opening, the names of the bidders shall become public record after compliance with all the requirements of the GTA sealed procurement process as in Rule 665-2-4-.02 of this Section.

(2) Under a two-step process, only those offerors that the agency that issued the solicitation determines to have acceptable technical offers shall be invited to submit price offers. The price offers shall be publicly opened and the offeror(s) with the acceptable technical offer(s) notified of the time and place for the opening. After opening, the price offer(s) shall become public record if no negotiation is permitted. At least two agency working days shall be given prior to the opening. There shall be at least two agency employees present at the opening.

(3) Under a two-step process where negotiations are anticipated, only those offerors determined by the agency that issued the solicitation to have acceptable technical offers shall be invited to submit price offer(s). The price offers shall be publicly opened and the offeror(s) with the acceptable technical offer(s) notified of the time and place for the opening. The price offer(s) shall become public record upon point of award.

Authority O.C.G.A. §§ 50-25-7.3(e), 50-25-4(a)(30).

665-2-4-.06 Late Offers, Modifications, or Withdrawals. In general the agency or GTA will not consider late offers, modifications, or withdrawals

unless these would have been timely except for the action or inaction of agency or GTA personnel directly serving the procurement process. Offerors shall deliver all offers on time, regardless of the mode of delivery used. However, the state CIO or agency head may elect to accept any late offer if it is determined that such acceptance did not compromise the integrity of the competitive process and it is determined to be in the best interest of the state.
Authority O.C.G.A. §§ 50-25-7.3(e), 50-25-4(a)(30).

665-2-4-.07 Error/Clarification. When the agency or GTA determines that an offer appears to contain an obvious error or otherwise where an error is suspected, the agency or GTA may investigate or act upon the circumstances. Any action taken shall not prejudice the rights of the public or other offering companies. Where offers are submitted substantially in accordance with the solicitation document but are not entirely clear as to intent or to some particular fact or where there are other ambiguities, the agency or GTA may seek and accept clarifications or may open communications.
Authority O.C.G.A. §§ 50-25-7.3(e), 50-25-4(a)(30).

665-2-4-.08 Extension of Acceptance Time. When the agency or GTA determines it is in the public interest, the agency or GTA may request that the offerors extend the time offered for the acceptance of offers.
Authority O.C.G.A. §§ 50-25-7.3(e), 50-25-4(a)(30).

665-2-4-.09 Evaluation.

(1) In determining the award of contracts, the agency or GTA shall consider and evaluate bona fide offers as provided by statute and applicable rules. The agency or GTA shall identify in the solicitation document the evaluation criteria to be used in determining the award of contract.

(2) Unsigned offers shall be rejected by the awarding agency.

(3) During the period of evaluation and prior to award, only the information provided in the tabulation is public record. Only persons in the agency who are responsible for handling the offers and accompanying information, and others determined necessary by the agency that issued the solicitation document, shall possess offers, including any accompanying information submitted with the offers for the purpose of evaluation and award of contract. Any communication with an offeror that may be necessary for purpose of clarification of its offer shall be conducted by the agency that issued the solicitation document. Further offeror participation in the evaluation process shall not be permitted except as deemed necessary by the CIO or his designee to effectively conclude the award process or as otherwise permitted under these rules. After award of the contract

or when the need for the item or service is canceled, the complete file shall be available to any interested party with the exception of information excluded from disclosure under the Georgia Open Records Act.
Authority O.C.G.A. §§ 50-25-7.3(e), 50-25-4(a)(30).

665-2-4-.10 Notification of Award. If a solicitation is required to be advertised, then notice of the resulting contract award shall be posted via the Georgia Procurement Registry website or otherwise made publicly available by the agency issuing the solicitation document. After contract award, successful companies shall be notified in writing or electronically by the agency issuing the solicitation document.
Authority O.C.G.A. §§ 50-25-7.3(e), 50-25-4(a)(30).

665-2-4-.11 Lack of Competition. The agency and GTA shall make every effort to maximize competition. Where only a single offer or a single acceptable offer is received, the agency shall ascertain the reason and make it a matter of record.
Authority O.C.G.A. §§ 50-25-7.3(e), 50-25-4(a)(30).

665-2-4-.12 Solicitation Documents. An agency or GTA shall use a solicitation document when soliciting offers on contracts valued over two thousand five hundred dollars (\$2,500) unless the CIO or his designee waives the requirement pursuant to rule. In their solicitation documents, the agencies and GTA shall require offerors to certify that each offer is submitted without collusion and the proposed price was independently determined.
Authority O.C.G.A. §§ 50-25-7.3(e), 50-25-4(a)(30).

665-2-4-.13 Division of Requirements. An agency or GTA shall not divide requirements to keep the expenditure under GTA's general delegation and thereby avoid following the appropriate contracting requirement. In the case of similar and related items and services and groups of items, the dollar limits apply to the total cost rather than the cost of any single item.
Authority O.C.G.A. §§ 50-25-7.3(e), 50-25-4(a)(30). 50-25-7.2(a).

665-2-4-.14 Advertisement Requirements.

(1) All advertisements required by rule shall be through the Georgia Procurement Registry website. Solicitations required by rule shall be advertised continuously and at least 15 days prior to the date designated for opening unless the CIO or his designee waives advertising requirements. Conditions permitting waiver of advertising requirements shall include, but not be limited to the following:

(a) Acquisition of goods or services subject to rapid price fluctuations or immediate acceptance;

(b) Emergency situations (pressing need);

(c) Acquisition of goods or services needed for any ongoing job, task, or project;

(d) Acquisition of goods or services where performance or price competition is not available; and

(e) Any determination that no useful purpose would be served by requiring advertisement.

(2) This Rule does not prevent solicitation of offers by additional direct mailings or additional advertisement by an agency.

(a) If there is an attachment to a solicitation that the agency determines will not be electronically transmitted, then the solicitation document, when it is electronically transmitted, shall include instructions to contact the agency that issued the solicitation to obtain the attachment.

Authority O.C.G.A. §§ 50-25-7.3(e), 50-25-4(a)(30).

665-2-4-.15 Mandatory Conferences/Site Visits.

(1) When a solicitation requires potential offerors to attend a mandatory conference or mandatory site visit, the date, time, location, and other pertinent details of the conference or site visit shall be given in the solicitation document and in the advertisement.

(2) If only one potential offeror attends the mandatory conference or mandatory site visit, the conference or site visit may be conducted, but the agency shall investigate why only one potential offeror was in attendance and ascertain if there is any competition available. If it is determined that competition is available, time permitting, the agency may schedule another conference or site visit, if deemed to be to the advantage of the state. If it is determined that there is no competition available, then the procurement may be handled as a waiver as permitted by rule.

(3) Any and all questions by a potential offeror regarding a solicitation document shall be addressed to the purchaser named on the document. Any and all revisions to the solicitation document shall be made only by written

addendum from the purchaser. Verbal communications from whatever source are of no effect.

Authority O.C.G.A. §§ 50-25-7.3(e), 50-25-4(a)(30).

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665-2-5-.01 Basis for Rejection. In soliciting offers, the agency or GTA may reject any offer in whole or in part. Basis for rejection shall include, but not be limited to, the agency or GTA deeming the offer unsatisfactory as to quantity, quality, delivery, price or service offered; the offer not complying with conditions of the solicitation document or with the intent of the proposed contract; lack of competitiveness by reason of collusion or otherwise or knowledge that reasonably available competition was not received; error(s) in specifications or indication that revision(s) would be to the state's advantage; cancellation of or changes in the intended project or other determination that the proposed requirement is no longer needed; limitation or lack of available funds; circumstances that prevent determination of the lowest best value offer; or any determination that rejection would be to the best interest of the state. Authority O.C.G.A. §§ 50-25-7.3(e), 50-25-4(a)(30).

665-2-5-.02 Negotiation. If an agency or GTA does not receive an offer that is deemed to be advantageous to the state in response to a solicitation or all offers are rejected and if it is determined that soliciting offers again would not be in the best interest of the State, as determined by the CIO, negotiations may be conducted with sources of supply that may be capable of satisfying the requirement. The negotiations shall be conducted by GTA or that agency if under their delegation. The results of the negotiations shall be reduced to writing and any resulting contract or notice of award document shall include standard language and terms and conditions issued by GTA. If the negotiations are conducted with only one source or if only one source responds to the negotiations, the reason for lack of competition shall be documented in writing for public record. The CIO or his designee may also conduct negotiations under conditions that merit a waiver of competition or in other situations that are advantageous to the state as determined. Authority O.C.G.A. §§ 50-25-7.3(e), 50-25-4(a)(30).

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665-2-6-.01 Responsibility. The receiving agency shall inspect all materials, supplies, equipment and services upon delivery to ensure compliance with the contract requirements and specifications.

Authority O.C.G.A. §§ 50-25-7.3(e), 50-25-4(a)(30).

665-2-6-.02 Selection. GTA may periodically inspect any items or work product to ensure that specifications are met. The agency must ensure that goods or services purchased comply with applicable codes, statutes, local ordinances, policies or safety requirements.

Authority O.C.G.A. §§ 50-25-7.3(e), 50-25-4(a)(30).

665-2-6-.03 Samples. When samples are required in response to a solicitation document, agency or GTA may test those samples or have them tested at other designated facilities. Samples shall not be sent directly to laboratories outside the agency or GTA unless it is determined by GTA that these facilities have the capability, time, or expertise needed. Furnished samples shall be returned if reasonable and specifically requested.

Authority O.C.G.A. §§ 50-25-7.3(e), 50-25-4(a)(30).

665-2-6-.04 Specifications. When the agency that awarded the contract or GTA determines it to be advantageous to the state, it may authorize revisions to a contract specification, including any cost adjustment associated with any such revision, as part of contract administration. If an increase in cost results in the total contract value being more than the agency's delegation, then the agency shall obtain prior written approval from GTA, regardless of what agency initially awarded the contract.

Authority O.C.G.A. §§ 50-25-7.3(e), 50-25-4(a)(30).

665-2-6-.05 Report of Discrepancy. Where goods or services delivered fail to meet the specifications or contract requirements, the discrepancy shall be resolved by the agency that issued the solicitation document.
Authority O.C.G.A. §§ 50-25-7.3(e), 50-25-4(a)(30).

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665-2-7-.01 Enforcement. Using agencies shall enforce the contractual guarantee or warranty applying to the goods or services purchased.
Authority O.C.G.A. §§ 50-25-7.3(e), 50-25-4(a)(30).

665-2-7-.02 Report to GTA Procurement. If any agency has difficulty in obtaining satisfactory performance including service as provided for in a guarantee or warranty, under a contract handled, approved or otherwise authorized by GTA; the agency shall refer the matter to GTA.
Authority O.C.G.A. §§ 50-25-7.3(e), 50-25-4(a)(30).

665-2-7-.03 Responsibility of Using Agency. The using agency must notify the vendor promptly when latent or other defects are discovered. In the event the vendor fails to remedy the condition reported and the contract was handled, approved or otherwise authorized by GTA, the matter shall be referred to GTA.
Authority O.C.G.A. §§ 50-25-7.3(e), 50-25-4(a)(30).

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665-2-8-.01 Use and Description. State IT contracts are binding agreements between the state and successful offerors to provide information technology goods or services in accordance with stipulated terms and conditions.

(a) Term Contracts

1. A term contract is a binding agreement between purchaser and seller to buy and sell certain goods or services for a period of time at prices established by the contract. Statewide term contracts consolidate normal, anticipated requirements of all agencies into one agreement and shall be handled by GTA. No agency may purchase goods or services covered by a statewide term contract from any other source unless authorized by the CIO or his designee.

2. A term contract shall be based upon competition, where available, with potential vendors being advised as to the actual business they are competing for and, if successful, the business they have earned.

3. Agencies may handle agency specific term contracts for use by their agency if the estimated expenditure over the term of the contract is under their delegation and the good or service is not covered by a statewide term contract. If an agency documents to GTA a need to establish an agency specific term contract for which the expenditure over the term of the contract exceeds the agency's delegation and is not covered by a statewide term contract, GTA may issue a solicitation document for the purpose of awarding an agency specific term contract for use by the requesting agency in accordance with the determining factors set forth in Rule 665-2-8-.02 of this Section.

(b) Convenience Contracts

1. Convenience contracts are indefinite quantity contracts that are awarded by GTA that may be used by state agencies to purchase goods or services at the

agency's discretion. Convenience contracts function like statewide term contracts, but their use by agencies is not mandatory.

2. If an agency elects not to purchase the goods or services it requires from an established convenience contract, the rules of competitive bidding apply to the acquisition.

(c) Master Agreements are an agreement between a vendor and the state that applies to multiple contracts or purchase orders that include standard terms and conditions.

Authority O.C.G.A. §§ 50-25-7.3(e), 50-25-4(a)(30).

665-2-8-.02 Determining Factors. In determining whether a good or service will be on a statewide term contract, GTA shall consider such factors as volume, nature of the good or service, repetitiveness of use, relative stability of prices, and transportation costs. In determining whether a good or service will be on an agency specific term contract, the agency shall consider such factors as volume, nature of the product or service, repetitiveness of use, relative stability of prices, and transportation costs.

Authority O.C.G.A. §§ 50-25-7.3(e), 50-25-4(a)(30).

665-2-8-.03 Extension of Contract Termination Dates. When in the public interest, contractors may be requested to extend the scheduled termination dates of contracts.

Authority O.C.G.A. §§ 50-25-7.3(e), 50-25-4(a)(30).

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665-2-9-.01 Use.

(1) Partial, progressive or multiple awards may be made where it is advantageous to the state.

(2) Notwithstanding the necessity for awards to more than one supplier in the case of some indefinite quantity contracts, such awards shall be limited to the number of suppliers deemed necessary to reasonably satisfy the intended requirements.

Authority O.C.G.A. §§ 50-25-7.3(e), 50-25-4(a)(30).

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665-2-10-.01 Policy. Under conditions listed in this Rule, and otherwise if deemed to be in the public interest by the CIO or his designee, competition may be waived. If the procurement is under the delegation of the agency, the agency may waive competition in conformance with this rule. If the procurement is over the agency delegation, requests for waiver shall be submitted to GTA for appropriate determination. Competition may be waived under the following conditions: where competition is not available; where a needed product or service is available from only one source of supply; where emergency action is indicated; where competition has been solicited but no satisfactory offers received; where standardization or compatibility is the overriding consideration; where a donation predicates the source of supply; where personal or particular professional services are required; where a product or service is needed for a person with disabilities and there are overriding considerations for its use; where additional products or services are needed to complete an ongoing job or task; where a particular product or service is desired for educational, training, experimental, developmental or research work; where equipment is already installed, connected and in service, and it is determined advantageous to purchase it; where items are subject to rapid price fluctuation or immediate acceptance; where there is evidence of resale price maintenance or other control of prices, lawful or unlawful, or collusion on the part of companies that thwarts normal competitive procedures; where a purchase is being made and a price is available from a previous contract; where the requirement is for an authorized cooperative project with another governmental unit(s) or a not-for-profit organization(s); and where a used item(s) is available on short notice and subject to prior sale.

Authority O.C.G.A. §§ 50-25-7.3(e), 50-25-4(a)(30).

665-2-10-.02 Approval and Documentation. Although competition may be waived pursuant to Rule 665-2-10-.01 of this Section, the use of competition is required wherever practicable. Where waiver is contemplated, agencies may negotiate with a potential vendor(s) in an effort to acquire the quality of good or service needed at the best possible price, delivery, terms and conditions, when

the expenditure is less than their respective delegation. Documentation justifying waiving the competitive process must be attached to the record of this type of procurement. Under an emergency situation, the procurement process requesting or inviting an offer(s) shall be handled by the agency, including standard language terms and conditions issued by GTA, unless circumstances prohibit their use. Negotiations may also be conducted with a potential vendor(s) for contracts exceeding the delegation if the agency has received prior approval from GTA. All actions that exceed the general delegation are subject to the conditions of Rule 665-2-12-.02 of this Subchapter.
Authority O.C.G.A. §§ 50-25-7.3(e), 50-25-4(a)(30).

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665-2-11-.01 Confidentiality.

(1) The offeror may designate documents or records as proprietary or a trade secret however this may not prevent disclosure under the Georgia Open Records Act (O.C.G.A. 50-18-70 et seq.). Only documents or records meeting the criteria for an exemption of the Georgia Open Records Act can be kept from disclosure by GTA pursuant to a valid Open Records Request. Documents or records that the offeror does not wish disclosed must be identified on each page in boldface at the top and bottom as "CONFIDENTIAL," along with a cite as to the relevant legal authority exempting the materials from disclosure. Cost information shall not be deemed confidential. Offerors are put on notice that the mere identification and citing of relevant authority may not obviate a disclosure under the Georgia Open Records Act.

(2) To promote maximum competition and to protect the public competitive procedure from being used to obtain information that would normally not be available otherwise, the agency that issued the solicitation document may maintain the confidentiality of trade secrets, and other procurement materials, and like information as the CIO or his designee or the agency's executive officer or his designee may determine necessary to ensure the integrity of the public purchasing process.
Authority O.C.G.A. §§ 50-25-7.3(e), 50-25-4(a)(30).

665-2-11-.02 Payment Plans. Purchase contracts may provide for payment over a period of time. Such instances shall carry written prior approval of the administrative head of the agency. Administrative heads and governing board of agencies shall see that statutory or other prohibitions are not violated. The intended plan of payment shall be included in the procurement document.

Authority O.C.G.A. §§ 50-25-7.3(e), 50-25-4(a)(30).

665-2-11-.03 Change in Corporate Structure. The state's contracts shall not be assigned. In cases where contractors are involved in corporate consolidations, acquisitions, or mergers; the agency that issued the solicitation document resulting in the contract may negotiate agreements for the transfer of contractual obligations and the continuance of contracts within the framework of the new corporate structures.

Authority O.C.G.A. §§ 50-25-7.3(e), 50-25-4(a)(30).

665-2-11-.04 Purchasing from or through Agency Employees. Every reasonable effort shall be made to avoid making purchases from or through employees of any agency. Prior written approval from the CIO or his designee is required before doing business with such personnel. In deciding whether to grant approval, the CIO or his designee shall consider the type of item or service needed, the prevailing market conditions, whether competition is available, the cost involved, and the effects of doing business with the employee. All such purchases must comply with all statutory requirements governing such transactions.

Authority O.C.G.A. §§ 50-25-7.3(e), 50-25-4(a)(30).

665-2-11-.05 Antitrust Violations. In instances of identical offers, or where there are otherwise indications of collusion, awards may be made in a manner intended to discourage or prevent its continuance as deemed to represent the state's best interest. The agency that issued the solicitation documents shall report suspected antitrust violation to appropriate law enforcement authorities.

Authority O.C.G.A. §§ 50-25-7.3(e), 50-25-4(a)(30).

665-2-11-.06 Cooperative Purchasing.

(1) Where an agency or GTA is a participant in a cooperative project with another governmental entity or with a not-for-profit organization, goods and services necessary to the project shall be acquired according to rules in this Chapter. However, if the interest of the state would be better served by one of the following acquisition methods, the CIO or his designee may authorize that acquisition method to be used:

(a) by making or authorizing acquisition on behalf of such governmental entity or not-for-profit organization; or

(b) by authorizing acquisition on the state's behalf under the provisions of another state or another governmental entity, or not-for-profit organization or consortium.

(2) For the purposes of this Chapter, such governmental entity or not-for-profit organization or consortium may be based in Georgia or in any other state. Authority O.C.G.A. §§ 50-25-7.3(e), 50-25-4(a)(30).

665-2-11-.07 Protest Procedure. This Protest Procedure (“Procedure”) is the sole and exclusive administrative procedure for protests, challenges or other claims against any aspect of any procurement or procurement processes of the GTA.

(a) Filing

1. An Interested Party is the only party that may file a Protest under this Procedure.

2. All Protests, and any subsequent pleadings, correspondence or other communications with respect to such Protest, must be filed in writing, with a signed original and three (3) copies delivered to the Contracting Officer on a Business Day, between the hours of 9:00 a.m. and 5:00 p.m. local time, at the same address shown for filing the Solicitation Response in the Solicitation Document that is the subject of the Protest. The filing or copying of any pleadings, correspondence or other communications with respect to a Protest with any GTA official other than the appropriate Contracting Officer shall subject the Protest to summary dismissal in accordance with Rule 665-2-11-.07(e).

3. All Protests must be received by the Contracting Officer no later than 5:00 p.m. local time on the last day that such Protest may be filed with respect to a particular Solicitation Document in accordance with this Procedure. Protests may be filed only by hand delivery, U.S. mail or commercial carrier. Protests received by email or fax will not be considered.

4. Failure to timely file the Protest in accordance with Rule 665-2-11-.07(a), or any supporting documents that are required to be filed as a part of the Protest under Rule 665-2-11-.07(b)3, will result in the Protest being deemed untimely and subject to summary dismissal pursuant to Rule 665-2-11-.07(e). Protests will be date/time stamped by the GTA, and timeliness will be determined solely by the GTA with reference to such date/time stamp.

5. Upon receipt of a Protest, the Protest Coordinator shall review the Protest for compliance with the procedures and requirements set forth within this Rule, the applicable Solicitation Document, and with the specific requirements set forth in Rule 665-2-11-.07(b). Protests that fail to comply with any mandatory

item in that rule shall subject the Protest to summary dismissal in accordance with Rule 665-2-11-.07(e). Upon receipt of any subsequent pleadings, correspondence or other communications with respect to a Protest that are permitted by this Rule or requested by the Protest Decisionmaker from the Protestor, the Contracting Officer will forward such materials as expeditiously as possible to the appropriate Protest Decisionmaker for the Protest. Upon receipt of any subsequent pleadings, correspondence or other communications with respect to a Protest that are not permitted by this Procedure, Rule 665-1-2-.04, or requested by the Protest Decisionmaker from the Protestor, the Contracting Officer will forward such materials as expeditiously as possible to the appropriate Protest Coordinator for disposition under Rule 665-2-11-.07(e).

(b) Form of the Protest

1. All Protests must be filed in an envelope labeled "PROTEST," which identifies the Protestor's name and address, the name of the GTA Contracting Officer, the GTA title assigned to the procurement, and the applicable solicitation or contract numbers.

2. Protests must be on the Protestor's letterhead and shall not exceed ten (10) pages in length (including all attachments and exhibits thereto that contain any written pleadings or argument, but excluding supporting documentation under Rule 665-2-11-.07(b)3). Each page shall have print on only one side of the page with margins no smaller than one inch (1"). The font size shall be no smaller than Courier 10 characters per inch, 12 point (or equivalent).

3. Any supporting documentation that is cited or specifically referenced in the Protest, whether or not it is not already in the possession of the GTA (including copies of any Solicitation Documents), must be filed simultaneously with the Protest.

4. Each Protest shall contain the following mandatory information:

(i) Protestor's name, address, telephone number, facsimile number and e-mail address.

(ii) A signed and notarized affidavit of the Protestor's chief executive officer or the Protestor's legal counsel, given under oath and expressly stating that it is given under penalty of perjury, that the contents of the Protest are true and correct and that the filing of the Protest is authorized by the Protestor's chief executive officer.

(iii) The signature of the Protestor's chief executive officer or the Protestor's legal counsel, whichever is signing the Protest for or on behalf of the Protestor, notarized separately from, and in addition to, the notarized affidavit under Rule 665-2-11-.07(e)4(ii).

(iv) The specific title assigned by the GTA to the procurement and to the specific Solicitation Document that is the subject of the Protest, and all associated GTA solicitation or contract numbers, must be clearly shown on each page of the Protest.

(v) A specific detailed statement of all legal and factual grounds relied upon by the Protestor in filing its Protest. Any grounds not included in the Protest that the Protestor could have raised when the Protest was filed will be deemed irrevocably waived and may not be part of, or grounds for, that or any subsequent Protest or other legal action filed by Protestor.

(vi) Information in the form of signed affidavits or supporting documentation sufficient to show that the Protestor qualifies as an Interested Party for the procurement with respect to which such Protest is filed.

(vii) Evidence that the filing of the Protest is timely along with all supporting documentation.

(viii) A specific statement of the form and nature of the relief requested by Protestor.

5. The Protestor's failure to include in its Protest all of the mandatory items specified in Rule 665-2-11-.07(b) shall subject the Protest to summary dismissal in accordance with Rule 665-2-11-.07(e).

(c) Time for Filing

1. Protestors challenging any aspect of a particular procurement with respect to any matter or event first occurring on or before the Solicitation Response Date of a particular Solicitation Document, including, without limitation, any aspect of such particular Solicitation Document, shall file their Protest within five (5) Business Days of when the basis for the Protest is known or should have been known to Protestor (whichever is earlier) but in no event later than the Solicitation Response Date for such Solicitation Document. Any Protest by the Protestor with respect to any matter or event first occurring on or before the Solicitation Response Date, including any aspect of the procurement process or the Solicitation Documents issued or occurring prior thereto, must be made within the time frame set forth in Rule 665-2-11-.07(c)1 or will be deemed

irrevocably waived and may not be part of, or grounds for, any subsequent Protest or other legal action filed by Protestor. For purposes of this Procedure, Interested Parties shall be deemed to have knowledge of the form and contents of any Solicitation Document at the time that such Solicitation Document is first posted to the Georgia Procurement Registry website or otherwise put on public notice in accordance with the Rules of the GTA.

2. Protestors challenging any aspect of a particular procurement with respect to any matter or event first occurring after the Solicitation Response Date with respect to the particular Solicitation Document and on or prior to the Solicitation Decision Date with respect to such Solicitation Document, including the Contract Award or any other decision issued by the GTA with respect to such procurement during such period of time, shall file their Protest within five (5) Business Days of when the basis for the Protest is known or should have been known to Protestor (whichever is earlier) but in no event later than five (5) Business Days after the Solicitation Decision Date. Any Protest by the Protestor with respect to any matter or event first occurring after the Solicitation Response Date with respect to the particular Solicitation Document and on or prior to the Solicitation Decision Date with respect to such Solicitation Document, including any aspect of the procurement process occurring during such period of time in the procurement with respect to which the Protest is filed, must be made within the time frame set forth in Rule 665-2-11-.07(c)2 or will be deemed irrevocably waived and may not be part of, or grounds for, any subsequent Protest or legal action filed by Protestor.

3. Protests not filed in accordance with the deadlines set forth in Rule 665-2-11-.07(c) shall be deemed untimely and subject to summary dismissal pursuant to Rule 665-2-11-.07(e).

(d) Protest Decisionmaker

1. Except as specifically set forth in Rule 665-2-11-.07(d)2 or Rule 665-2-11-.07(d)3, all Protests shall be decided by the GTA Agency Decisionmaker as the Protest Decisionmaker who is authorized by the Executive Director to resolve or rule on any Protest. The Agency Decisionmaker's actions, decisions and orders in such capacity as Protest Decisionmaker shall be deemed to be on behalf of the Executive Director and effective as though taken by the Executive Director.

2. At the sole and exclusive discretion of the Procurement Director exercised at any time prior to the appointment of a Third Party Hearing Officer or the issuance of a decision with respect to a Protest, the Procurement Director may request that the Executive Director appoint a Protest Panel to recommend a resolution or ruling on any Protest in accordance with Rule 665-2-11-.07(i)4.

Upon any such appointment of a Protest Panel by the Executive Director, the Protest Panel's actions, decisions and orders in such capacity as Protest Decisionmaker shall be deemed to be on behalf of the Executive Director and effective as though taken by the Executive Director, subject, however, to Rule 665-2-11-.07(i)4. Upon the request for and appointment of a Protest Panel with respect to a particular Protest, such appointment of a Protest Panel with respect to such Protest shall be irrevocable and the Agency Decisionmaker shall not thereafter be entitled to rule singly or to request the appointment of a Third Party Hearing Officer under Rule 665-2-11-.07(d)3 with respect to such Protest.

3. At the sole and exclusive discretion of the Procurement Director exercised at any time prior to the appointment of a Protest Panel or the issuance of a decision with respect to a Protest, the Procurement Director may request that the Executive Director appoint a Third Party Hearing Officer to recommend a resolution or ruling on any Protest in accordance with Rule 665-2-11-.07(i)4. Upon such appointment of a Third Party Hearing Officer by the Executive Director, The Third Party Hearing Officer's actions, decisions and orders in such capacity as Protest Decisionmaker shall be deemed to be on behalf of the Executive Director and effective as though taken by the Executive Director, subject, however, to Rule 665-2-11-.07(i)4. Upon the request for and appointment of a Third Party Hearing Officer with respect to a particular Protest, such appointment of a Third Party Hearing Officer with respect to such Protest shall be irrevocable and the Agency Decisionmaker shall not thereafter be entitled to rule singly or to request the appointment of a Protest Panel under Rule 665-2-11-.07(d)2 with respect to such Protest.

(e) Summary Dismissal: The Protest Coordinator, at any time prior to forwarding the Protest to the Protest Decisionmaker, or the Protest Decisionmaker at any time thereafter, may, in their sole discretion, summarily dismiss any Protest failing to comply with any aspect of this Procedure or any aspect of the applicable Solicitation Documents issued by the GTA. The Protester will be notified in writing by facsimile transmission or electronic means, with the original to follow by United States Mail, of the summary dismissal of their Protest.

(f) Determination that a Protest is a Frivolous Protest

1. The Protest Coordinator shall review the Protest to determine whether, in the Protest Coordinator's sole discretion, the Protest meets the definition of a Frivolous Protest. If the Protest Coordinator does not make such review, or after such review either does not determine or declines to determine that the Protest is a Frivolous Protest, the Protest Decisionmaker shall render a decision on the Protest in accordance with Rule 665-2-11-.07(g).

2. If, after review, the Protest Coordinator determines that the Protest is a Frivolous Protest, the Protest Coordinator will notify the Protestor in writing by facsimile transmission or electronic means, with the original to follow by United States Mail, of such determination.

3. The Protestor shall have five (5) Business Days from the date the Protest Coordinator issues the facsimile or electronic notification under Rule 665-2-11-.07(f)2 in which to deliver to the Protest Coordinator the Protestor's written election to proceed with the Protest. Such notice of an election to proceed may be filed with the Protest Coordinator only by hand delivery, U.S. mail or commercial carrier, and notices received by email or fax will not be valid. Failure to notify the Protest Coordinator prior to 5 p.m. on the fifth (5th) Business Day in accordance with the foregoing, or, if applicable, to simultaneously file the bond required by Rule 665-2-11-.07(f)4, shall be deemed a withdrawal of the Protest. Protestor's written election to proceed with the Protest will be date/time stamped by the GTA, and timeliness will be determined solely by the GTA with reference to such date/time stamp.

4. Any Protestor who has filed at-least two (2) Protests with GTA that are determined by the Protest Coordinator or the Protest Decisionmaker to be Frivolous Protests and were not subsequently withdrawn by the Protestor shall be required by the GTA or the Protest Decisionmaker to file a bond, in accordance with this provision, as a condition precedent to any other Frivolous Protest proceeding through the provisions contained in Rule 665-2-11-.07 to a final determination. In the event a bond is required, and the Protestor decides to proceed with the protest, the Protestor must file with the Executive Director, simultaneously with the Protestor's notice to the Protest Coordinator of its election to proceed with the Protest in accordance with Rule 665-2-11-.07(f)3, either a cash bond or a surety bond executed by the Protestor as the principal and by a surety company qualified and authorized to issue bonds and do business in the State of Georgia.

(i) The bond shall be payable to the GTA and in an amount equal to:

(I) For any Protest filed prior to Contract Award, ten percent (10%) of the Estimated Contract Value, or

(II) For any Protest filed after Contract Award, ten (10%) percent of the Contract Value.

(ii) The bond shall be for an indeterminate period to cover the duration of the Protest and conditioned to provide indemnification for the direct and

consequential costs, damages and expenses arising out of the filing, including, but not limited to:

(I) Any costs, damages and expenses to the GTA from the processing of the Protest,

(II) Any costs damages and expenses to the GTA or any Agency of delaying the Contract Award, and

(III) All costs and expenses of related litigation, including attorney's fees incurred by the GTA in connection with the Protest and any such related litigation.

5. In the event that the final decision on the Protest issued by the Protest Decisionmaker includes a finding that the Protest was a Frivolous Protest or if the Protest is denied, the GTA shall have the right to recover on the bond for the costs, damages and expenses set forth in Rule 665-2-11-.07(f)4 or the amount of the bond, whichever is less. The bonding company shall pay immediately upon receipt of written notification from the GTA of any final decision rendered by the Protest Decisionmaker that the Protest was a Frivolous Protest or that the Protest is denied or, if such decision rendered by the Protest Decisionmaker is appealed, upon receipt of written notification from the GTA of any final order or judgment of any court having jurisdiction affirming such decision. After payment in full to the GTA of all of the costs, damages and expenses set forth in Rule 665-2-11-.07(f)4, any remaining balance of the bond will be discharged, but if the bond is insufficient to discharge in full all such costs, damages and expenses, GTA shall retain the right to recover any amount not covered by the bond from the Protestor. In the event the Protest is sustained or is found not to be a Frivolous Protest, the bond shall be returned to the Protestor.

6. The Procurement Director or the Procurement Director's designee shall keep a log of all Frivolous Protests that are not withdrawn in accordance with Rule 665-2-11-.07(f)3. However, if any court of competent jurisdiction, in a final nonappealable order, overturns the Protest Decisionmaker's final determination that a Protest was a Frivolous Protest, such Protest shall not be considered a Frivolous Protest for purposes of this Rule 665-2-11-.07(f)(4).

(g) Time for Decision by Protest Decisionmaker: Protests that are not either summarily dismissed or withdrawn (or deemed withdrawn) shall be forwarded by the Protest Coordinator as expeditiously as possible after the end of the review period referred to in Rule 665-2-11-.07(f)1 to the Protest Decisionmaker for a decision. The Protest Decisionmaker shall issue a decision as expeditiously as possible after the later to occur of

1. Thirty (30) Business Days from the day the Protest is forwarded to the Protest Decisionmaker pursuant to Rule 665-2-11-.07(g), or

2. The receipt of any requested information from the Contracting Officer, the Protestor or any other party who has relevant information that the Protest Decisionmaker deems necessary in order to render its decision on the Protest.

(h) Protest Decisionmaker's Investigation

1. The Protest Decisionmaker may request or permit submission of additional statements or documentation from the Contracting Officer, as the Protest Decisionmaker deems necessary in its sole discretion.

2. The Protest Decisionmaker may make a reasonable investigation and is authorized to request any information or documentation it deems necessary in order to render a decision on the Protest.

(i) Protest Adjudication Procedures

1. The Protest Decisionmaker, in its sole discretion, may issue written questions to the Protestor on any issue the Protest Decisionmaker deems necessary for its consideration of the Protest. Such written questions may be issued in lieu of or in addition to a hearing. Unless specifically required or permitted by this Procedure, or otherwise specifically requested by the Protest Decisionmaker in writing to the Protester, the Protester may not file any written pleading, motion or other written documentation with the Contracting Officer or the Protest Decisionmaker after Protester's filing of the initial Protest.

2. The Protest Decisionmaker, in its sole discretion, either at the Protest Decisionmaker's own instance or upon the Protestor's prior written request, may elect to conduct a hearing in connection with the Protest. Any requests for a hearing must include a brief statement demonstrating that the Protest Decisionmaker's decision will be aided by a hearing. In the event that the Protest Decisionmaker schedules a hearing, the notice of the hearing may set forth the scope of the hearing, including, but not limited to, the issues to be addressed, the length of hearing and whether documentary or testimonial evidence will be accepted. Alternatively, the Protest Decisionmaker may conduct a pre-hearing conference concerning the procedures to be followed at the hearing, what issues are under consideration and a list of witnesses who may testify. The issues and evidence considered by the Protest Decisionmaker are within the sole discretion of the Protest Decisionmaker.

3. The Protest Decisionmaker shall have the discretion to review the Protest Coordinator's determination that a Protest is a Frivolous Protest. If the Protest Coordinator has not made a determination that a Protest is a Frivolous Protest, the Protest Decisionmaker may determine that the Protest is a Frivolous Protest in accordance with this Procedure. Subject to Rule 665-2-11-.07(i)4, the Protest Decisionmaker may fashion any remedy the Protest Decisionmaker deems consistent with the procurement process and the Solicitation Documents, including without limitation,

(i) Deny the Protest in whole or in part,

(ii) Sustain the Protest in whole or in part, or

(iii) Subject to Rule 665-2-11-.07(i)4, order the Contracting Officer to take any measure consistent with the Protest Decisionmaker's remedy, including without limitation,

(I) Award the contract in accordance with the Contracting Officer's original decision,

(II) Suspend Contract Award or other Solicitation Decision and reevaluate the Solicitation Responses,

(III) Cancel the procurement or solicitation,

(IV) Amend the procurement, or

(V) Any other remedy the Protest Decisionmaker determines is necessary to protect or maintain the integrity of the GTA's procurement process.

4. The decision of the Protest Decisionmaker shall be final; provided, however, that if a Protest Panel or a Third Party Hearing Officer is the Protest Decisionmaker, the Protest Panel or Third Party Hearing Officer shall only be entitled to make a written recommendation to the Executive Director containing the Protest Panel's or Third Party Hearing Officer's proposed ruling on the Protest.

(i) The Executive Director may:

(I) Accept, modify or reject the Protest Panel or Third Party Hearing Officer's recommendation in whole or in part,

(II) Return the matter to the Protest Panel or Third Party Hearing Officer with instruction, or

(III) Make any other appropriate disposition.

(ii) The Executive Director's decision shall be deemed the final decision of the Protest Decisionmaker and within the sole discretion of the Executive Director.

(j) Stay of Procurement During Protest: The Executive Director may order a stay in the opening of a Solicitation Response or of the contract performance if the Executive Director determines, in the Executive Director's sole discretion, that a stay is in the best interest of the GTA, any affected Agency or the State of Georgia. Should the Executive Director not stay contract performance pending the resolution of any Protest to an actual Contract Award, the contract shall be awarded on a contingent basis, subject to revocation, revision or other adjustment or modification based on the final decision of the Protest Decisionmaker in such Protest.

(k) Costs: A Protestor shall not be entitled to recover any costs incurred in connection with the procurement process, the solicitation, the Protest, and/or compliance or attempted compliance with this Rule, including preparation costs or attorneys' fees.

(l) Governing Law: The laws and regulations of the State of Georgia, without application of its conflicts of laws principles, shall govern any action brought pursuant to this Procedure.

Authority O.C.G.A. § 50-25-7.3(e). **History.** Original Rule entitled "Reserved" was filed April 16, 2001 and effective on May 6, 2001 as 665-2-11-.07. **Amended:** Rule repealed and a new Rule entitled "Protest Procedure" adopted. Filed August 10, 2001; effective August 30, 2001.

665-2-11-.08 Code of Ethics for Government Service. The provisions of O.C.G.A. § 45-10-1 et. seq. strictly apply to these rules, to the actions of the GTA, and to all parties participating under these Rules.

Authority O.C.G.A. §§ 50-25-7.3(e); 45-10-1. **History.** Original Rule entitled "Reserved" was filed April 16, 2001 and effective on May 6, 2001 as 665-2-11-.08. **Amended:** Rule repealed and a new Rule entitled "Code of Ethics for Government Service" adopted. Filed August 10, 2001; effective August 30, 2001.

665-2-11-.09 Contract Termination for Convenience. At its sole option and in the exercise of its sole discretion, GTA may terminate a contract, in whole or

in part, for any reason with seven (7) days' written notice to the contractor ("Notice of Termination for Convenience").

(a) Notices of Termination for Convenience will specify the extent of the termination and the effective date.

(b) After receipt of a Notice of Termination for Convenience, and except as otherwise directed by GTA, the Contractor shall immediately proceed with the following obligations, regardless of any delay in determining or adjusting any amounts due under this section:

1. Stop work as specified in the Notice of Termination for Convenience.
2. Place no further subcontracts or orders for materials, services or facilities, except as necessary to complete the continuing portion of the contract.
3. Terminate all subcontracts and orders to the extent they relate to terminated work.
4. Assign to GTA as directed by the contracting offer, all rights, title, and interest of the contractor under the subcontracts and orders terminated, in which case GTA may settle or pay termination settlement proposal arising out of those terminations.
5. Settle all outstanding liabilities and termination settlement proposals arising from the termination of subcontracts and orders.
6. As directed by the Contracting Officer, transfer title and deliver to GTA –
 - (i) The fabricated or unfabricated parts, work in process, completed work, supplies, and other material produced or acquired for the work terminated; and
 - (ii) The completed or partially completed plans, drawings, information, and other property that, if the contract had been completed, would be required to be furnished to GTA.
7. Complete performance of the work not terminated.
8. Take any action that may be necessary or that the Contracting Officer may direct, for the protection and preservation of the property related to the Contract that is in the Contractor's possession and in which GTA has or may acquire an interest

9. Use its best efforts to sell, as directed or authorized by the Contracting Officer, any property of the types referred to in subsection (f) of this section; provided, however that the Contractor:

(i) Is not required to extend credit to any purchaser and

(ii) May acquire the property under the conditions prescribed by, and at prices approved by, the Contracting Officer. The proceeds of any transfer or disposition will be applied to reduce any payments to be made by GTA under the contract, credited to the price or cost of the work, or paid in any other manner directed by the Contracting Officer.

10. Within seven (7) days after the effective date of termination, the Contractor shall submit to the Contracting Officer a written final termination settlement proposal in the form and with the certification required by the Contracting Officer. The amount of the final termination settlement proposal shall not exceed the total contract price as reduced by (1) the amount of payments previously made and (3) the contract price of work not terminated.

11. The Contracting Officer and the Contractor may use the final termination settlement proposal as the basis for negotiating an agreed upon whole amount to be paid to the contractor because of the termination for convenience.

12. If the Contracting Officer and Contractor fail to reach agreement in the whole amount to be paid to the Contractor because of the termination for convenience, the Contracting Officer shall pay the Contractor the amounts determined as follows:

(i) The total of –

(I) The contract price for completed supplies or services accepted by GTA not previously paid for;

(II) The costs incurred in the performance of the work terminated, including initial costs and preparatory expenses applicable thereto;

(III) The costs of settling and paying termination settlement proposals under terminated subcontractors or orders that are properly chargeable to the terminated portion of the contract.

(ii) Less –

(I) All unliquidated advance or other payments to the contractor under the terminate portion of the Contract;

(II) The amount of any devices which GTA has against the Contractor under the contract; and

(III) The agreed price for, or the proceeds of sale of, materials, supplies, or other items acquired by the Contractor or sold under the provisions of the section and not recovered or credited to GTA.

13. Contractor may appeal the final termination amount paid, if such amount is not a result upon which the Contracting Officer and the Contractor have agreed. Any such appeal must comply with the requirements set forth in the regulations for the resolution of disputes and claims.

14. The GTA may terminate a contract for Convenience of the State, GTA or any Agency.

Authority O.C.G.A. § 50-25-7.3(e). **History.** Original Rule entitled “Reserved” was filed April 16, 2001 and effective on May 6, 2001 as 665-2-11-.09. **Amended:** Rule repealed and a new Rule entitled “Contract Termination for Convenience” adopted. Filed August 10, 2001; effective August 30, 2001.

665-2-11-.10 Default Proceedings; Debarment.

(1) The agency that issued the solicitation document resulting in the contract may find a contractor in default of contract for failing to perform in accordance with the contract requirements, terms and conditions. If a contractor is found in default of a contract, the agency that issued the solicitation document resulting in the contract may take action, immediate if necessary, to purchase the needed goods or services on the open market and charge any additional cost for the goods or services and expense for doing so to the defaulting contractor. If an agency finds a contractor in default, such action and the circumstances shall be reported by the agency to GTA in writing. This does not limit any other remedies that may be available to the state or agency.

(2) GTA may remove the contractor from any distribution lists that may be utilized and debar the contractor from doing IT procurements with the state for a period of one year. GTA shall notify any contractor of debarment action in writing.

Authority O.C.G.A. §§ 50-25-7.3(e), 50-25-4(a)(30).

665-2-11-.11 Faithful Performance.

(1) A bond, or other means of ensuring faithful performance, may be required of the contractor at the contractor's expense.

(2) Liquidated damages may be provided for in the contract, as a means of ensuring faithful performance from the contractor.

(3) The agency may hold as a retainage a percentage of the contract value to be remitted upon final acceptance by the agency.

(4) The agency may withhold final payment contingent on acceptance of the final deliverable.

(5) Performance-based payments may be utilized.
Authority O.C.G.A. §§ 50-25-7.3(e), 50-25-4(a)(30).

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**CHAPTER 665-2-12
EXEMPTIONS, EMERGENCIES, AND SPECIAL DELEGATIONS**

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665-2-12-.01 Exemptions. The CIO or his designee may exempt products and services from purchase through GTA provided the CIO or his designee determines that no price or quality advantage would be gained by handling a particular acquisition through GTA.
Authority O.C.G.A. §§ 50-25-7.3(e), 50-25-4(a)(30).

665-2-12-.02 Emergencies.

(1) An agency may make purchases of goods or services in the open market in cases of emergency or pressing need. For this purpose, a pressing need is one arising from unforeseen causes including, but not limited to, delay by contractors, delay in transportation, breakdown in machinery, unanticipated volume of work, or financial situations which result in the State incurring unreasonable expenses. Emergencies are defined as situations that endanger lives, property or the continuation of a vital program or unreasonably risk assets, as determined by the agency executive officer, and that can be rectified only by immediate, on-the-spot purchases or rental of goods or services.

(2) Agencies may negotiate with a potential vendor(s) in an effort to acquire the quality of good or service needed at the best possible price, delivery, terms and conditions. If time permits, a solicitation document requesting or inviting an offer(s) may be issued, including standard language terms and conditions issued by GTA, unless circumstances prohibit their use.

(3) When emergency or pressing need action is necessary, and the expenditure is over the delegation, prior verbal approval shall be obtained from GTA if time permits. Subsequently, whether or not such prior approval was possible, if the expenditure is over the delegation, an explanation of the emergency or pressing need purchase shall be reported in writing to GTA.
Authority O.C.G.A. §§ 50-25-7.3(e), 50-25-4(a)(30), 50-25-7.6.

665-2-12-.03 Special Delegations.

(1) The CIO or his designee may authorize, by special delegation, any agency to purchase specific goods or services even if the expenditure exceeds the general delegation. Every such delegation shall be in writing and made a matter of record.

(2) The CIO or his designee may require that offers received under such delegations be sent to GTA for determination of the successful vendor.

(3) GTA shall periodically review its special delegations of purchase to ascertain the availability of these goods or services and their continued suitability for delegation.

Authority O.C.G.A. §§ 50-25-7.3(e), 50-25-4(a)(30).

665-2-12-.04 Compliance Reviews.

(1) GTA shall be responsible for compliance reviews on technology purchasing practices at all agencies. The purpose of the compliance review shall be for determining if an agency is complying with GTA's purchasing statutes and rules adopted there under, and whether it should continue having the same level of delegation, have it reduced, or if it qualifies for an increase. A copy of the compliance report shall be provided to the agency's executive officer, and the State CIO.

(2) GTA staff may enter the premises and obtain an agency's purchasing records for the purpose of the compliance review. The agency shall cooperate with GTA staff, providing them with requested records, adequate office space for conducting the review and agency purchasing staff for discussion of purchase transactions. GTA shall not unnecessarily require of the agency any more than is needed to complete the review.

(3) The CIO may lower, or raise if requested, an agency's general delegation if the results of a compliance review by the compliance staff of GTA merit such action as determined by the CIO. The CIO may lower the delegation to any level, including the complete removal of the delegation, depending on the nature of any violations found.

(4) The CIO or his designee shall provide to each agency, upon request, GTA's assistance in educational training for the agency's staff to better acquaint them with GTA's purchasing statutes and rules.

Authority O.C.G.A. §§ 50-25-7.3(e), 50-25-4(a)(30).

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665-2-13-.02 Records.

665-2-13-.01 Record Maintenance. Except where state law provides to the contrary, after the award of a contract, the purchasing records of an agency are public documents, and these documents shall be maintained for a period of three years after the expiration date of the contract. Record retention shall be in accordance with the Georgia Records Act (O.C.G.A. § 50-18-90 et seq. Authority O.C.G.A. §§ 50-25-7.3(e), 50-25-4(a)(30).

665-2-13-.02 Records.

(1) The agency or GTA shall identify each paper or electronic contract record individually so it can be readily located and referenced.

(2) The agency or GTA shall document all purchase transactions. As applicable, each paper or electronic record shall include:

- (a) Requisition;
- (b) Required approval to proceed with acquisition;
- (c) Original offers if in writing, or written documentation of verbal offers received;
- (d) Worksheets/evaluations;
- (e) Distribution list, if used;
- (f) Written justification for waiver or emergency purchase;
- (g) Evaluation of offers received;
- (h) Copy of purchase order(s) or certification to agency authorizing placing of order;

(i) Related correspondence;

(j) Reason(s) for receiving only one offer in response to a solicitation;

(k) Negotiated contracts;

(3) After award of contract all material in the contract record, except confidential information, shall be open to interested persons, by appointment, during normal office hours in accordance with the Georgia Open Records Act. Authority O.C.G.A. §§ 50-25-7.3(e), 50-25-4(a)(30).